

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

MATTHEW KING, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. 4:08CV1050 RWS
	)	
ALAN BLAKE, et al.,	)	
	)	
Defendants.	)	

**ORDER**

This matter is before me on my review of the file. Plaintiffs filed a motion for summary judgment on September 4, 2009. Under the governing case management order [#40], any motions for summary judgment should have been filed by July 1, 2009. That Order specifically states: "Failure to timely file a motion for summary judgment will waive a party's right to do so before trial." Although I extended the discovery cutoff to September 1, 2009 by Order dated May 15, 2009, I did not extend the summary judgment deadline. Therefore, plaintiffs' motion is untimely. Plaintiffs did not seek leave to file their motion out of time and offer no reason for the substantial delay. Accordingly, plaintiffs' motion for summary judgment will be denied as untimely filed.

I have also considered plaintiffs' motion to exclude defendants from using plaintiff King's deposition at trial. Having carefully reviewed plaintiffs' motion and defendants' opposition to the motion, the motion will be denied.

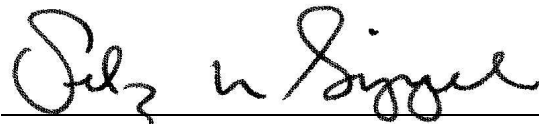
Finally, no timely motions for summary judgment having been filed, this case is now ready to be set for trial. A separate Order setting this case for trial is entered this same date.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiffs' motion for summary judgment [#77] is denied.

**IT IS FURTHER ORDERED** that plaintiffs' motion for oral argument on their summary judgment motion [#81] is denied as moot.

**IT IS FURTHER ORDERED** that plaintiffs' motion to exclude defendants from using King's deposition [#76] is denied.

A handwritten signature in black ink, appearing to read "Rodney W. Sippe", written over a horizontal line.

RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 10th day of September, 2009.